

PATENT COOPERATION TREATY

17/03

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT	RECD 25 NOV 2004
WIPO	PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Applicant's or agent's file reference see form PCT/ISA/220		Date of mailing (day/month/year) see form PCT/ISA/210 (second sheet)	
International application No. PCT/GB2004/003864	International filing date (day/month/year) 09.09.2004	Priority date (day/month/year) 10.09.2003	
International Patent Classification (IPC) or both national classification and IPC B65D83/16			
Applicant BTG INTERNATIONAL LIMITED			

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for International preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Janosch, J Telephone No. +49 89 2399-7525
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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/GB2004/003864

Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - a sequence listing
 - table(s) related to the sequence listing
 - b. format of material:
 - in written format
 - in computer readable form
 - c. time of filing/furnishing:
 - contained in the international application as filed.
 - filed together with the international application in computer readable form.
 - furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/GB2004/003864

Box No. II Priority

1. The following document has not been furnished:

copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
 translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or
industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	3-9,12-18,20-28
	No: Claims	1,2,10,11,19
Inventive step (IS)	Yes: Claims	3-9,12-18,20-28
	No: Claims	1,2,10,11,19
Industrial applicability (IA)	Yes: Claims	1-28
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V.

- 1 The following documents are referred to in this communication:
D1 : WO 97/29029 A (LINDAL VALVE CO LTD ; OWEN THOMAS PHILIP (GB); BELAU RUEDIGER (DE)) 14 August 1997 (1997-08-14)
D2 : FR 2 710 558 A (OREAL) 7 April 1995 (1995-04-07)
D3 : DE 19 26 796 A (DUDIUYT JEAN PAUL; PLANCHARD PIERRE) 19 March 1970 (1970-03-19)
- 2 INDEPENDENT CLAIM 1
 - 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.
Document D1 discloses (cf. claims 1, 4, 7; page 2, last paragraph - page 5, first paragraph; figures 1-6; the references in parenthesis applying to this document) an: Apparatus for dispensing foam comprising a source of foam and a dispensing device, the dispensing device comprising:
 - a) an inlet (11, 12, 13) in communication with the source of foam;
 - b) a usable foam outlet (18a);
 - c) a waste bleed outlet (18b) communicating with the inlet, the bleed outlet having a higher resistance to flow of foam than that of the usable foam outlet (18a).
 - 2.2 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.
Also documents D2 (cf. claims 1, 3, 6, 8; page 5, line 11 - page 6, line 18; page 7, line 9 - page 8, line 7; figures 1-4) and document D3 (cf. page 8, paragraph 1; page 9, paragraph 2; page 10, paragraph 2; figures 1-14) disclose all features of claim 1.
- 3 INDEPENDENT CLAIM 10
 - 3.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 10 is not new in the sense of Article 33(2) PCT.
Document D1 discloses (cf. claims 1, 4, 7; page 2, last paragraph - page 5, first

paragraph; figures 1-6; the references in parenthesis applying to this document) a:

Device for dispensing foam comprising:

- a) an inlet (11, 12, 13) for communication with a source of foam;
- b) a usable foam outlet (18a);
- a waste bleed outlet (18b) communicating with the inlet, the bleed outlet having a higher resistance to flow of foam than that of the usable foam outlet (18a); and
- c) a connector (4) for mechanically securing the device to a source of foam.

4 DEPENDENT CLAIMS

2.3 Dependent claims 2, 11 and 19 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step.

2.4 The subject-matters of claims 3-9, 12-18 and 20-28 are neither known from nor suggested by the prior art.